

**REMARKS**

Claims 85-100, 103 and 104 are pending in this application. By this Amendment, claim 85 is amended, and claims 103 and 104 are added. Support for the amendment to claim 85 may be found at least in Fig. 8 of Applicant's specification. Support for added claims 103 and 104 may be found at least at paragraph [0052] of Applicant's specification. No new matter is added. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

The Office Action, on page 2, rejects claims 85-100 under 35 U.S.C. §103(a) as being unpatentable over JP-A-63-17031 to Kogyo in view of CN 1270786 to Gueret. (Gueret is equivalent to U.S. Patent No. 6,334,727, and shares the same inventor as this application.) This rejection is respectfully traversed.

Claim 1 recites, among other features, a receptacle comprising: at least two containers each defining a housing, each housing containing only one product, and configured in such a manner as to be superposable on a stacking axis, wherein each container, except for a bottom container along the stacking axis, comprises a bottom wall with a sealing lip extending downward from the bottom wall configured to cooperatively overlap with a surface within the housing defined by the container below it.

Kogyo is directed to receptacles for cosmetics that are stacked on top of each other (Abstract). The Office Action asserts that Kogyo teaches many of the features recited in independent claim 85. The Office Action concedes that Kogyo fails to teach a receptacle body containing a substance with an applicator member secured to the receptacle body during application of the substance, with a closure cap that is configured to be removably fixed to the receptacle body wherein the receptacle body is of a different shape than the containers. Rather, the Office Action relies on Gueret to make up for this shortfall.

Gueret is directed to an applicator that comprises a support that is configured to allow the applicator to be engaged with a container containing a first product, in the form of a gel, cream or liquid in an application member on the support (Abstract). The Office Action asserts that it would have been obvious to one of ordinary skill to make the bottom of the lowest container of Kogyo such that it may form a closure cap to another receptacle, and fit it to such a receptacle in view of Gueret, to provide a device with a means for containing a different type of cosmetic. The analysis of the Office Action fails for at least the following reasons.

First, Kogyo cannot reasonably be relied upon in the manner the Office Action suggests. Specifically, Kogyo cannot be considered to have suggested the recited lip that extends downward from the bottom wall. Element 12 in Kogyo is not a lip, but rather is described, in Kogyo, as a hole for engaging hinge pins 8. Kogyo illustrates in Fig. 20 that hinge pins 8 are installed within mounting holes 13. Kogyo also describes element 12 as engagable mounting holes. Because element 12 is merely a mounting hole, element 12 in Kogyo cannot be considered to correspond to the claimed lip that extends downward from the bottom wall. Gueret fails to make up for this shortfall.

Second, the Examiner is reminded that it is the invention as a whole that is to be evaluated from an obviousness standpoint, and not individual differences of the claimed invention (see MPEP §2142.02). The Office Action asserts that it would have been obvious to have rearranged the "lip" of Kogyo, which is not a lip at all, to extend downward from a bottom wall instead of upward from a top wall of Kogyo. There must be a motivation to make such a rearrangement (see MPEP §2144.04). The Examiner has not provided any statement for such motivation to rearrange the features taught in Kogyo, and therefore, any rearrangement must be based on the impermissible application of hindsight reasoning based on Applicant's disclosure.

Third, claim 85 recites that the lip is a sealing lip. In other words, the claimed lip provides a seal between the lip and the housing defined by the container below the container from which the lip extends downward from. The pin 8 in Kogyo does not seal the container in Kogyo. Gueret fails to make up for this shortfall.

For at least the foregoing reason, no combination of Gueret with Kogyo would have rendered obvious the combination of features recited in independent claim 85. Further, dependent claims 86-100 would also not have been rendered obvious for at least the dependence of these claims on independent claim 85, as well as for the subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejection of claims 85-100 under 35 U.S.C. §103(a) are respectfully requested.

Added claims 103 and 104 are not anticipated, or otherwise rendered obvious, by any of the applied references because none of the references teach that the claimed lip is circumferential and that the claimed hinge is a film hinge. Therefore, claims 103 and 104 are allowable.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 85-100, and consideration and allowance of claims 103 and 104, are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



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WPB:MJS/cfr

Attachment:  
Petition for Extension of Time

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